IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

DELAY CONDONATION APPLICATION NO.NILL OF 2002
IN
D GOVERNMENT APPEAL No. 3 of 2002

State of Uttaranchal

.....Applicant

Versus

Mukarram S/o Sakoor & others

... Respondents

Dated: July 13, 2007

Sri Prabhakar Joshi, learned brief holder for the State/appellant.
None appeared for the respondents.

HON. DHARAM VEER, J.

The present delay condonation application has been filed by the State Government for condoning the delay in filing the leave to appeal application and appeal. The leave to appeal application and the appeal has been filed along with the delay condonation application against the judgment and order dated 22.08.2001 passed by Sessions Judge, Hardwar in Session Trial No.102 of 1996, State Vs. Mukarram & others, whereby the learned Sessions Judge has acquitted the respondents for an offence punishable under Section 307 of the Indian Penal Code, 1860. The notices were issued to the respondents on 07.05.2002 which was duly served upon the respondents.

2. I have perused the delay condonation application supported by an affidavit. There is delay of 164 days in filing the appeal. The delay is not explained by sufficient cause. The day-to-day has also not been explained in the affidavit. It is not mentioned that after passing of the judgment and order dated 22.08.2001, as to when the matter was referred to DGC(Criminal) for opinion. It is also not mentioned in the affidavit as to when the DGC (Criminal) has referred the matter to the Law Department. It has not been stated that when the limitation for filling the appeal before this Court was

up to 21.10.2001, then why the appeal has been filed after expiry of period of limitation. It is also not clear that when the affidavit filed along with delay condonation application was sworn in on 22.04.2002, then as to why the appeal was filed on 6.05.2002. Thus, in this way day-to-day delay has not been explained by sufficient cause.

3. For the reason stated above, the delay condonation application is devoid of merit and is hereby dismissed. Consequently, the leave to appeal application as well as appeal, both are also dismissed.

(Dharam Veer, J.)

July 13, 2007
Rajeev Dang